

Application No.: 10/587,778
Amendment Dated: December 23, 2010
Reply to Office Action of: October 20, 2010

MAT-8872US

Remarks/Arguments:

Claims 33-59 are pending and rejected in the application. No claims have been amended. No new matter has been added.

On page 3, the Official Action rejects claims 33, 35-36, 38-42, 44-45, 47-51 and 53-55 under 35 U.S.C. § 103(a) as being unpatentable over O'Toole Jr. (US 7,673,048) in view of O'Neill (US 2003/0224758). It is respectfully submitted, however, that the claims are patentable over the art of record for at least the reasons set forth below.

Applicants' invention as recited by claim 42, includes features which are neither disclosed nor suggested by the art of record, namely:

... wherein the sustain data received by the data processing apparatus indicates a connection time for the tunnel communication between the data processing apparatus and the other data processing apparatus exclusive of the access apparatus.

Claim 42 relates to a sustain data which indicates a connection time between at least two data processing apparatuses. Specifically, the data processing apparatuses perform tunnel communication exclusive of an access apparatus (an access apparatus relaying data between the two data processing apparatuses is not required). Support for this feature can be at least found on pages 9 and 25 of Applicants' specification and furthermore shown in Fig. 21. No new matter has been added.

On page 4 and 5 of the Official Action, the Examiner cites paragraphs 43, 60 and 70 of O'Neill for suggesting two data processing apparatuses which perform tunnel communication exclusive of an access apparatus. Applicants, however, respectfully disagree with the Examiner.

As shown in Fig. 10, O'Neill's system includes two data processing apparatuses communicating through a tunnel (i.e., apparatus 642 and 604 are communicating to each other through tunnels 1011 and 1025 respectively). O'Neill

suggests that the access apparatuses 605 and 605' are not involved in the tunnel communication (i.e. the access devices do not perform tunneling operations such as encapsulating and decapsulating packets).

Access apparatuses 605 and 605', however, are still involved in the communication between node 632 and node 604 (access apparatuses 605 and 605' forward the packets between the two nodes). For example, access node 605, as shown in Fig. 1, is able to receive wireless communications from node 604 via antennas 203 and 205, and transmit wired communications to node 632 via I/O interface 208.

Thus, access nodes 605 and 605' are essential in order for node 632 and node 604 to perform tunnel communications (i.e., the nodes cannot perform tunnel communications with each other unless access nodes 605 and 605' act as intermediate nodes and forward the packets during communication). Thus, nodes 604 and 632 are not able to perform tunnel communication exclusive of access node 605 (even though access node 605 does not perform tunnel operations, access node 605 is still relied upon for forwarding the tunnel communication packets between the nodes).

Furthermore, combining O'Neill and O'Toole would result in an inoperable system. Specifically, if gateway 34-1 in O'Toole's Fig. 1 was replaced by access node 605 in O'Neill's Fig. 10, O'Toole's system would not be able to perform tunnel communication. O'Toole teaches that gateway 34-1 (the access node) must have tunnel communication capabilities in order to receive communications from client device 30. If gateway 34-1 does not have tunneling capabilities as suggested by O'Neill's access node 605, then client device 30 would not be able to send tunnel communications to destination device 36-M (i.e., gateway 34-1 and destination device 36-M would not have tunneling capabilities to encapsulate and decapsulate the packets from client device 30).

Applicants' claim 42 is different than the art of record, because tunnel communication is performed between two data processing apparatuses exclusive of an access apparatus ("... wherein the sustain data received by the data processing

apparatus indicates a connection time for the tunnel communication between the data processing apparatus and the other data processing apparatus exclusive of the access apparatus").

As shown in Applicants' Fig. 21, data processing apparatus 1 and data processing apparatus 2 are able to perform tunnel communication through network 3 exclusive of access apparatus 7 (i.e., access apparatus 7 is not required to encapsulate/decapsulate packets or forward packets between the two devices). For example, once data processing apparatus 1 and data processing apparatus 2 obtain sustain data from access apparatus 7, they do not need access apparatus 7. Thus, packets may be directly sent between data processing apparatus 1 and data processing apparatus 2 exclusive of access apparatus 7. Access apparatus 7 is not located in between (and relaying data between) the data processing apparatuses. Accordingly, for the reasons set forth above, claim 42 is patentable over the art of record.

Independent claims 33 and 51 include similar features to claim 42. Thus, independent claims 33 and 51 are also patentable over the art of record for at least the reasons set forth above.

Dependent claims 35-36, 38-41, 44-45, 47-50 and 53-55 include all of the features of the claims from which they depend. Thus, these claims are also patentable over the art of record for at least the reasons set forth above.

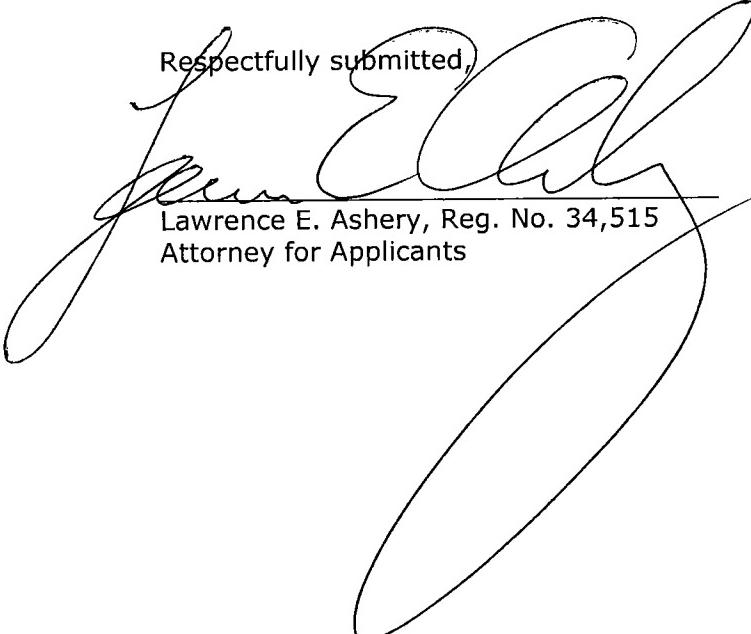
On page 9, the Official Action rejects claims 34, 37, 43, 46, 52 and 56-59 under 35 U.S.C. § 103(a) as being unpatentable over O'Toole, in view of O'Neill, and further in view of King (US 2002/0194292). King is relied upon for using a data processing apparatus to judge the cancellation of tunnel communication. King, however, does not make up for the deficiencies of O'Toole and O'Neill. Thus, these claims are also patentable over the art of record for at least the reasons set forth above.

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In view of the amendments and arguments set forth above, the above-identified application is in condition for allowance which action is respectfully requested.

Respectfully submitted,


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